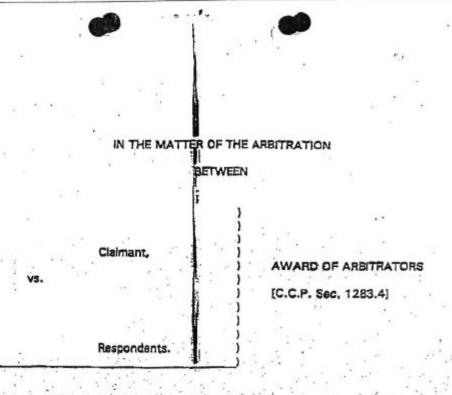
APPENDIX A



On December 6, 7, 8, 9, 10, 1999, with deliberations on December 21, 1999, the arbitrators heard evidence in the above-entitled matter:

After considering the evidence, the arbitrators make their Award as follows: Judgment for Respondents,

and against Claimant,

. Claimant to recover nothing.

Each side to bear its own costs with the costs of the neutral arbitrator to be shared equally between the parties.

Dated: 171

1988-

Jack Byburn, Neutral Arbitrass

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Dated: 124 3 1999.

Craig Higgs, Claimant's Arbitrator

Dated: Dec. 29 , 1999.

P. Theodore Hammond, Wafense Arbitrator

2 3 Attorneys for Respondents, IN THE MATTER OF ARBITRATION BETWEEN 10 11 12 13 15 Respondent. 16 An arbitration hearing in the above-entitled matter was held 17 , appearing on November 13, 1999, with Claimant, , appearing on behalf of in propria persona, Attorney Respondent, 20 , appearing on behalf of Co-Respondents, .21 Attorney 22 At the 23 conclusion of Claimant's presentation of evidence, Respondent and 24 Co-Respondents moved for a non-suit, pursuant to C.C.P. §581c, on the grounds that Claimant failed to carry her burden or proof by 26 presenting evidence sufficient to support a prima facie case 27

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based upon alleged medical negligence and/or general negligence.

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The Motion for non-suit of Respondents

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was also based upon

Claimant's failure to carry her burden of proof by presenting any evidence whatsoever that Respondent,

, was an agent or employee under the supervision or control of Co-Respondents,

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After fully considering all of the oral and written evidence presented by the parties herein, as well as oral argument, it is the finding of the undersigned that Claimant failed to carry her burden or proof on the issues submitted and, therefore, the Motions for non-suit of Respondent and Co-Respondents are granted.

IT IS HEREBY ORDERED AND ADJUDGED, therefore, that Claimant recover nothing and that judgment be entered in favor of Respondent and Co-Respondents, and each of them, with each side bearing their own costs.

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ARBITRATION AWARD



AWARD NOTICE

8	1(4)		(4)		
*	The thrust of her complaint is directed to the lack of pre-operative diagnostic analysis and examination to determine any risk to her cardiac system. The evidence finds the actual surgery was performed within the standard of care and has resulted in a satisfactory post-operative result.				
N g	Claimant seeks damages as a result of cardiac complications arising from a surgical intervention to correct and/or repair a right shoulder rotator cuff impingement.				
	of which Claimant ,	_yyas one.	_was one.		
AWARD:	This matter came on for hear	ring pursuant to Section	on 8 of the	members.	
			7.5	. 1	
ADDITIONA	L PARTIES				
	ING RESPONDENT				
	ING CLAIMANT		**************************************		
	ARING		10, 2000	-	
	E NO.		(0)		
INCLED ANGS	CLAIM NO.		5035	-	
	respondent (s)	_}	4.4	• • •	
	Respondent (s).)	35.	2.1	
a	vs.) ARC Case	140.		
30) ARC Case	No		
	Claimant (s))			
		_,		18	

PRESIDING JURIST Hon. Robert D. Fratianne, Ret. DATE: January 24, 2000

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ARC Case No. Page 2

Cause of action for professional negligence is governed by California Code of Civil Procedure §364. Pursuant to that section, professional negligence means: "negligent act or omission to act by a health care provider in the mendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital."

It is a well known principle of tort law that Respondent will be held liable for Claimant's injuries only if Respondent breached a duty to exercise reasonable care. The California Supreme Court set out the standard in medical malpractice in Mann v. Cracchiola (1985) 38 Cal. 3d 18, 36; 210 Cal. Rptr. 762, 771. See also Munro v. Regents of the University of California 215 Cal. App. 3d 977; 263 Cal. Rptr. 878. In Mann, the court stated: "courts require only that physicians and surgeons exercise in diagnosis and treatment that reasonable degree of skill, knowledge and care ordinarily possessed and exercised by members of the medical profession under similar circumstances."

It is well settled that causation must be proven within a reasonable medical probability based upon competent expert testimony Bromme vs. Pavitt 5 Cal. App. 4th 1487 (1992).

Subsequent and in conjuncture with the underlying surgery, evidence of atrial fibrillation and flutter was diagnosed. Clinically, and by the evidence, finds the heart may go into atrial fibrillation and or flutter with no other sign of heart disease, but more often the cause is an underlying problem, such as pneumatic heart disease, coronary artery disease, high blood pressure, alcohol abuse or excessive thyroid hormone.

These episodes may occur sporadically or may persist. Symptoms, by the evidence herein, are obvious consisting of, but not limited to, chest pain, palpitations, shortness of breath and edema, all accompanied by weakness, fatigue and general malaise. Generally, most obvious symptom is sinus tachycardia. Immediate treatment consists of dioxin and beta blockers.

Prior to the surgery, Claimant received medication to reduce heart rate, which was base line 134. Post operative she remained confined to the hospital for further treatment and observation. There is no evidence of permanent cardiac damage. Anxiety was diagnosed as cause of tachycardia.

Medical negligence does not necessarily connotate an error in judgment or because medical efforts prove unsuccessful. Only if an error in judgment or lack of success is due to a failure to perform within the applicable standard of care. Obviously that standard of care is gleaned from the credible testimony and opinions of the physicians that have testified.

As the trier of fact it becomes my duty to weigh the conflicting testimony, not only as to liability, but also damages. To decide these issues, reliance is placed upon the convincing force of the evidence and the credibility of the parties and witnesses. To make that determination consideration is given to any matter that has a tendency in reason to prove or disprove the truthfulness of the testimony of the witness or party.

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